

DC4CLOPC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 SIXTO LOPEZ AND LEOLA LOPEZ,

4 Plaintiffs,

5 v.

13 CV 6151 (PAE) (AJP)

6 ASSOCIATED BLIND/SELIS MANOR,  
7 et al,

8 Defendants.

9 -----x  
10 New York, N.Y.  
11 December 4, 2013  
12 12:25 p.m.

13 Before:

14 HON. ANDREW J. PECK,

15 Magistrate Judge

16 APPEARANCES

17 SETON HALL UNIVERSITY SCHOOL OF LAW  
18 Attorneys for Plaintiffs  
19 BY: COLLEEN K. FAHERTY  
20 DAVID M. WHITE  
21 JAVIER DIAZ

22 REGINA A. MATEJKA  
23 Attorney for Defendant  
24 Board of Directors for Associated Blind

DC4CLOPC

1 (Case called)

2 THE COURT: We're on the record of case of Sixto Lopez  
3 and Leola Lopez against Associated Blinds/Selis Manor, 13 CV  
4 6151, to record the settlement agreement that the parties have  
5 just reached with the Court's assistance. I will state the  
6 terms of the agreement. I ask counsel and clients to pay  
7 careful attention, give me the universal time out signal if I  
8 get something wrong, or there is something that needs to be  
9 corrected.

10 At the end, I will be asking counsel and the clients  
11 to confirm whether that is the settlement agreement they had  
12 just reached. The parties have agreed to amicably resolve this  
13 dispute without any admission of fault or liability by any  
14 party on the following terms, which will be described in four  
15 categories.

16 First, with respect to mail, Selis Manor will instruct  
17 its mailroom employees not to accept any United States Postal  
18 Service packages, or other material, that is larger than what  
19 fits into the larger locked mailboxes for the Lopezes. They  
20 will also continue to follow the policies they have been  
21 following, which is that Federal Express, or similar outside  
22 delivery companies, deliver mail directly to the tenants'  
23 apartment, and that there is no involvement of Selis Manor in  
24 that. In any event, Selis Manor will do its best not to accept  
25 any such FedEx, UPS or other outside delivery packages for the

DC4CLOPC

1 Lopezes.

2           In addition, the Lopezes should and I believe already  
3 have so instructed of the United States Postal Service and to  
4 the extent they know any packages are coming in from another  
5 service, make sure that the package only be delivered to them  
6 and not to anybody on their behalf.

7           Second, with respect to Mr. Lopez's need to be on the  
8 lease for Mrs. Lopez's apartment with her, Mr. Lopez has agreed  
9 to submit the 12 categories of documentation referred to by Ms.  
10 Matejka's letter, or information to plaintiffs' counsel.  
11 Specifically, that he will follow HUD and Selis Manor protocols  
12 and provide the following information to Selis Manor: Federal  
13 income tax forms; all W-2 and/or 1099 forms; bank books; bank  
14 statements; proof of interest in dividend income; social  
15 security award letters or form SSA 2458; proof of unemployment  
16 benefits, if currently unemployed and receiving such benefits;  
17 affidavit notarized of nonemployment; authorization to do a  
18 credit check, background and criminal check; three most recent  
19 paycheck stubs, if employed; proof of retirement benefits,  
20 pension; VA benefits; disability income and other income not  
21 otherwise listed above; certificate of blindness or partial  
22 blindness, as applicable; birth certificate and social security  
23 card; and authorization for a home visit. Albeit, the "home"  
24 being the apartment that he shares with Ms. Lopez in Selis  
25 Manor.

DC4CLOPC

1 MS. FAHERTY: Your Honor, if I may add to that.

2 THE COURT: Yes.

3 MS. FAHERTY: Mr. Lopez does have those documents  
4 here. Any other documents that are not in his possession as  
5 required by HUD, he would substantiate that with an affidavit  
6 signed under penalty of perjury.

7 THE COURT: Whatever is required for the usual normal  
8 Selis Manor/HUD application and approval process, and the  
9 parties are to cooperate with respect to that.

10 There is no guarantee that Selis Manor will accept his  
11 application, but it will follow normal HUD processes and  
12 procedures, and fairly and impartially deal with Mr. Lopez's  
13 application.

14 The third area of agreement is Selis Manor's access to  
15 the Lopez apartment. The parties have agreed, that except in  
16 emergencies where notice cannot be given, that for any repair  
17 situation, notice will be given. If the superintendent or the  
18 assistant superintendent is going to be the person or persons  
19 doing the work, the Lopezes shall be free to have an observer  
20 present to observe the conduct of Selis Manor's employees, and  
21 Selis Manor shall have an observer presumptively, the site  
22 manager, Tony Smith, and/or somebody designated, other than the  
23 superintendent and assistant superintendent, Cesar Vidal and  
24 Jose, his last name I did not get.

25 The annual site inspection of the apartment will be

DC4CLOPC

1 conducted by somebody other than the superintendent and  
2 assistant superintendent; specifically, by either Tony Smith or  
3 somebody else from the office. To the extent that repair  
4 concerns noted or noticed during that inspection would require  
5 the assistance of the superintendent to verify whatever the  
6 condition is a problem, the superintendent could be there under  
7 observation for that purpose.

8 As to the fourth area, grievances to the extent,  
9 besides or in addition to whatever the normal forms and other  
10 ways of asking for repairs, etc., Selis Manor will create a  
11 two-part form to be used by the Lopezes. The top of which will  
12 contain their complaint or grievance and the bottom will be  
13 filled out thereafter by the appropriate level of Selis Manor  
14 personnel with a response to that complaint or grievance. That  
15 may be at the office level. If the office believes it is  
16 appropriate to raise that to the level of the board of  
17 directors, the response may come on behalf of the board. There  
18 is no guarantee that the resolution will be acceptable, but it  
19 gives a way for the parties to better communicate their issues  
20 and responses.

21 At this point, it's not part of the settlement  
22 agreement, but I'm going to make a court comment to both sides,  
23 which is obviously, as long as Ms. Lopez and hopefully Mr.  
24 Lopez will continue to be living at Selis Manor. It is  
25 important that both sides try to let bygones be bygones and on

DC4CLOPC

1 a moving-forward basis, act professionally, appropriately,  
2 collegially with each other. I'm going to direct the personnel  
3 from Selis Manor, who are here, to convey the Court's desires  
4 in that regard to the other staff of Selis Manor. In  
5 particular, the superintendent and assistant superintendent in  
6 the hope that on a going-forward basis, this resolution behind  
7 us, that the parties will be able to amicably and collegially  
8 get along, because otherwise, frankly, both sides are going to  
9 be miserable.

10 There is a limit to what the Court can do. This will  
11 be ending the Court's involvement in this case. In a more  
12 normal situation, for example, if this were an employment  
13 discrimination-type case, usually one resolution of that is  
14 that if the plaintiff is still employed by the defendant, the  
15 plaintiff agrees to get another job and separate. We can't do  
16 that here because this is valuable housing for the blind, and  
17 Ms. Lopez has been living there for many years and Mr. Lopez  
18 has joined her. You have to find a way on both sides to get  
19 along better. Hopefully, this has laid the groundwork for  
20 that.

21 Back from my wishes, to the other terms of the  
22 settlement, which are that the case is dismissed with prejudice  
23 and without costs. I could enter that dismissal order on my  
24 signature authority pursuant to 28 U.S. Code Section 636(c),  
25 which for the nonlawyers means my signature carries the full

DC4CLOPC

1 weight of the district court on it.

2 I believe this has covered everything we've talked  
3 about.

4 Is there anything else that I forgot to mention?

5 MS. FAHERTY: Your Honor, in our initial demand  
6 letter, we requested a dollar in damages, but Mr. Lopez and Ms.  
7 Lopez, that was simply a symbolic number. They feel completely  
8 comforted at the progress we have achieved here today. There  
9 is no interest in the \$1 that was to be handed over. We would  
10 just thank your Honor for your mediation skills today, as well  
11 as thank the defendants and Ms. Matejka.

12 Thank you, your Honor.

13 THE COURT: Thank you.

14 Ms. Matejka, anything I need to add?

15 MS. MATEJKA: No, thank you, your Honor. Thank you  
16 for your time and also thank you to the Seton Hall School of  
17 Law pro bono program their gracious assistance in resolving  
18 this matter.

19 THE COURT: I join on behalf, not only for myself, but  
20 the Southern District of New York in thanking Professor White,  
21 and Ms. Faherty and Mr. Diaz, the students from Seton Hall, for  
22 their contributions to justice in this case. I know that this  
23 is not the only case that Seton Hall is taking on for the  
24 court. We are very, very grateful.

25 Let's do the formal what I call the wedding ceremony

DC4CLOPC

1 of the "I do's."

2 I have to ask Professor White: Technically who is  
3 counsel of record?

4 MR. WHITE: The appearance is mine, your Honor.

5 THE COURT: Professor White, on behalf of the  
6 plaintiffs and subject to their individual acceptance that I  
7 will ask for in a moment, do you agree to the terms of the  
8 settlement?

9 MR. WHITE: Yes, your Honor.

10 THE COURT: Mr. Lopez, having received the advice of  
11 your volunteer lawyers, do you agree to the terms of the  
12 settlement as I described it.

13 MR. LOPEZ: Yes, I do.

14 THE COURT: Ms. Lopez, do you agree to the terms of  
15 the settlement as I have described it?

16 MS. LOPEZ: Yes.

17 THE COURT: Ms. Matejka, as counsel of record and  
18 subject to your client's assent, that I will ask for, do you  
19 agree to the terms of the settlement?

20 MS. MATEJKKA: Yes.

21 THE COURT: Mr. Smith, you are authorized on behalf of  
22 the corporate defendants and all the defendants.

23 MR. SMITH: Yes, I am.

24 THE COURT: Do you agree to the terms of the  
25 settlement?

DC4CLOPC

1                   MR. SMITH: I do agree, yes.

2                   THE COURT: I want to thank all counsel and all the  
3 clients here for their cooperative approach to this. I do  
4 direct defense counsel only to purchase the transcript. I'm  
5 sorry about that. I can't make Seton Hall pay for half the  
6 transcript.

7                   If you would be so kind as to purchase the transcript  
8 and send a courtesy copy both to the Seton Hall folks and also  
9 to Mr. and Ms. Lopez, so they will have it.

10                  I thank everybody for their cooperation today, and I  
11 hope they will continue going forward, even though the Court's  
12 role is done. Happy holidays all. We are adjourned.

13                  (Adjourned) 1

14

15

16

17

18

19

20

21

22

23

24

25